

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**DOROTHY HAYMER, on behalf of her minor child D.S., et al.**

**PLAINTIFFS**

**VS.**

**Civil Action No. 3:17-cv-00404-HTW-LGI**

**TATE REEVES, in his official capacity as  
Governor of Mississippi, et al.**

**DEFENDANTS**

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**DEFENDANTS' MOTION TO DISMISS PLAINTIFFS'  
FIRST AMENDED COMPLAINT**

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COME NOW Defendants<sup>1</sup>, by and through counsel, and pursuant to Rules 12(b)(1) and 12(b)(6), *Federal Rules of Civil Procedure*, file this their motion to dismiss the First Amended Complaint filed herein by Plaintiffs Dorothy Haymer, Precious Hughes, and Sarde Graham on behalf of their respective minor children (hereinafter collectively “Plaintiffs”), and in support thereof would show unto the Court the following:

1. The Court should dismiss Plaintiffs’ First Amended Complaint because (1) this case presents a nonjusticiable political question; (2) Plaintiffs lack standing; and (3) there is no private right of action.

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<sup>1</sup> “Defendants” is used collectively herein to refer to the following: Defendant Tate Reeves, in his official capacity as Governor of Mississippi; Defendant Philip Gunn, in his official capacity as Speaker of the Mississippi House of Representatives; Defendant Delbert Hosemann, in his official capacity as Lieutenant Governor of Mississippi; Defendant Michael Watson, in his official capacity as Secretary of State of Mississippi; Defendant Carey Wright, in her official capacities as State Superintendent of Education and Executive Secretary of the Mississippi State Board of Education; Defendant Rosemary Aultman, in her official capacity as Chair of the Mississippi State Board of Education; and Defendants Angela Bass, Ronnie McGehee, Karen Elam, Glen East, Wendi Barrett, Matt Miller, Mary Werner (incorrectly identified in Plaintiffs’ First Amended Complaint as “Mary Wener”), and Bill Jacobs, in their official capacities as Members of the Mississippi State Board of Education. There are no other defendants.

2. In the absence of a justiciable dispute and/or standing, this Court does not have subject matter jurisdiction.

3. Even if this Court were to find for some reason that jurisdiction exists, in the absence of a private right of action, Plaintiffs have failed to state a claim.

4. Defendants adopt and incorporate by reference, as if fully and completely set forth herein, the arguments and authorities set forth in the *Memorandum of Authorities in Support of Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint*, being filed contemporaneously herewith.

5. On the basis of the grounds asserted herein and as further set forth in the aforementioned memorandum of authorities, this Court lacks subject matter jurisdiction, and Plaintiffs' First Amended Complaint should be dismissed pursuant to FRCP 12(b)(1). Alternatively, Plaintiffs have failed to state a claim, and this action should be dismissed with prejudice pursuant to FRCP 12(b)(6).

**WHEREFORE, PREMISES CONSIDERED**, Defendants respectfully request that the Court make and enter its Order granting Defendants' motion to dismiss and dismissing Plaintiffs' First Amended Complaint pursuant to FRCP 12(b)(1) for lack of subject matter jurisdiction; or, alternatively, dismissing Plaintiffs' First Amended Complaint with prejudice pursuant to FRCP 12(b)(6) for Plaintiffs' failure to state a claim.

THIS the 14th day of September, 2021.

Respectfully submitted,

GOVERNOR TATE REEVES, ET AL.,  
DEFENDANTS

By: LYNN FITCH, ATTORNEY GENERAL  
STATE OF MISSISSIPPI

By: s/Rex M. Shannon III  
REX M. SHANNON III (MSB #102974)  
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ATTORNEYS FOR GOVERNOR TATE REEVES, ET AL., DEFENDANTS

**CERTIFICATE OF SERVICE**

I, Rex M. Shannon III, Special Assistant Attorney General and one of the attorneys for Defendants Governor Tate Reeves, et al., do hereby certify that I have this date caused to be filed with the Clerk of the Court a true and correct copy of the above and foregoing via the Court's ECF System, which sent notification of such filing to all counsel of record.

THIS the 14th day of September, 2021.

s/Rex M. Shannon III  
REX M. SHANNON III